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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,400	10/23/2001	Hans Groblacher	2309.2001-000	1025

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EXAMINER

EASHOO, MARK

ART UNIT PAPER NUMBER

1732

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/002,400

Applicant(s)

GROEBLACHER ET AL.

Examiner

Mark Eashoo, Ph.D.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2-19-02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election of claim group I, claims 1-9 and 13, filed 08-MAR-2004, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 10-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim. Election was made without traverse in the papers filed 08-MAR-2004.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 5, and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, each claim recites a limitation directed to the apparatus while it is in use rather than a positively stated description of a portion of the apparatus, as such, the limitation is indefinite because the structure intended by the limitation can not be clearly ascertained. Furthermore, the location of the melt in the apparatus when it is to be in a solid shape is unclear.

For the purpose of further examination, the solid shape of the melt from the primary extruder has been interpreted as being a hollow tube structure with an open passageway as it would exit the extruder.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 1732

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Wissmann et al. (US Pat. 5,616,350).

Regarding claims 1 and 13: Wissmann et al. teaches the claimed extrusion system comprising: a primary/first extruder (Fig. 1, element 18); a secondary extruder (Fig. 1, element 52); a primary flow director for the material from the primary extruder (Fig. 3, element 94); a secondary flow director for the material from the secondary extruder (Fig. 3, element 98); first and second co-extrusion assemblies (Fig. 3, elements 102 and 104); and dies (Fig. 3, elements 102 and 104). It is noted that Wissmann et al. teaches that the flow channels are specially configured to avoid restrictions or that would allow stagnation (abstract). Therefore, it is inherent that the passages of Wissmann et al.'s flow directors would not cause a substantial change in pressure.

It is noted that the co-extrusion assemblies shown in Fig. 3 of Wissmann et al. are mention in the written description as "dies", but Fig. 3 would clearly teach a person having ordinary skill in the art that the label structure is more than just the die (ie. or end piece) but is inclusive of an assembly to join two of the divided flow streams.

Regarding claim 2: Wissmann et al. teaches an unobstructed passage from the primary extruder to the first flow director (Fig. 3), thereby giving the melt therefrom a solid shape.

Regarding claim 3: Wissmann et al. teaches that the secondary flow divider (elements 98) has a top and bottom plate (Figs. 3 and 5, see bolt heads on top profile also see element 128). Since the divider has identical halves (5:18-40), both plates have channels in the face thereof. Wissmann et al. also teaches conduits (Fig. 3, element 174) leading from the bottom plate to the co-extrusion assemblies.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wissmann et al. (US Pat. 5,616,350) in view of Hacke (US Pat. 4,067,477).

Regarding claims 4 and 7: Wissmann et al. teaches the basic claimed extrusion system comprising: a primary/first extruder (Fig. 1, element 18); a secondary extruder (Fig. 1, element 52); a primary flow director for the material from the primary extruder (Fig. 3, element 94); a secondary flow director for the material from the secondary extruder (Fig. 3, element 98); first and second co-extrusion assemblies (Fig. 3, elements 102 and 104); and dies (Fig. 3, elements 102 and 104). It is noted that Wissmann et al. teaches that the flow channels are specially configured to avoid restrictions or that would allow stagnation (abstract). Therefore, it is inherent that the passages of Wissmann et al.'s flow directors would not cause a substantial change in pressure.

It is noted that the co-extrusion assemblies shown in Fig. 3 of Wissmann et al. are mention in the written description as "dies", but Fig. 3 would clearly teach a person having ordinary skill in the art that the label structure is more than just the die (ie. or end piece) but is inclusive of an assembly to join two of the divided flow streams.

Wissmann et al. does not teach spider bodies/heads for transforming a solid shaped melt into a tubular shape. Nonetheless, Hacke teaches spider bodies/heads for transforming a solid shaped melt into a tubular shape (Figs. 1-3, elements 46 and 61). Wissmann et al. and Hacke are combinable because they are concerned with a similar technical difficulty, namely, forming multiple extrusions. At the time of invention a person having ordinary skill in the art would have found it obvious to have used the spider bodies of Hacke, in the apparatus of Wissmann et al., and would have been motivated to do so in order to use the same extrusion system to

Art Unit: 1732

make a different desired/commercially desirable product, namely, pipes (ie. motivated by economic benefit of having a system useful for more than a single product).

Regarding claims 5 and 8: Wissmann et al. teaches an unobstructed passage from the primary extruder to the first flow director (Fig. 3), thereby giving the melt therefrom a solid shape.

Regarding claims 6 and 9: Wissmann et al. teaches that the secondary flow divider (elements 98) has a top and bottom plate (Figs. 3 and 5, see bolt heads on top profile also see element 128). Since the divider has identical halves (5:18-40), both plates have channels in the face thereof. Wissmann et al. also teaches conduits (Fig. 3, element 174) leading from the bottom plate to the co-extrusion assemblies.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wissmann et al. '349, Porter, Vermeerbergen, Schmitt, Nash, and Repholz et al. all teach the basic state of the art.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (571) 272-1197. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaanni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Eashoo, Ph.D.
Primary Examiner
Art Unit 1732

3/20/2004
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20/MAR/04